

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA §
§
v. § CRIMINAL NO. 4:07CR25
§
GABRIEL KIAN AFKHAMI §

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on February 21, 2013, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Ernest Gonzalez.

On October 4, 2007, Defendant was sentenced by the Honorable Marcia A. Crone, United States District Judge, to a sentence of 51 months imprisonment followed by a three-year term of supervised release for the offense of felon in possession of a firearm. Defendant began his term of supervision on November 12, 2010.

On October 29, 2012, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 45). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall refrain from any unlawful use of a controlled substance; (2) Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician; and (3) Defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S.

Probation Office, until such time as the defendant is released from the program by the probation officer.

The Petition alleges that Defendant committed the following violations: (1) On September 15, 2011, October 31, 2011, November 21, 2011, and September 18, 2012, Defendant submitted urine specimens that tested positive for marijuana; (2) On January 5, 2012, Defendant was unsuccessfully discharged from individual counseling at Bob Alterman's Office in Plano, TX. On October 17, 2012, Defendant failed to submit a urine specimen as instructed at Bob Alterman's office in Plano, TX.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the February 21, 2013 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twelve (12) months and one (1) day, with no supervised release to follow. The Court further recommends that Defendant's term of imprisonment be carried out at the FCI El Reno facility, if appropriate.

SIGNED this 28th day of February, 2013.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE